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February 2, 2012

**BY HAND DELIVERY**

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Re: RE 11E-33

Dear Mr. Jordan:

On behalf of Heath Shuler for Congress and Troy Burns, Treasurer (collectively "Respondents"), we write in response to this referral by the Reports Analysis Division ("RAD"). We respectfully request that the Commission close this matter as to Respondents.

Heath Shuler for Congress ("HSFC") is the principal campaign committee of Rep. Heath Shuler. In order to ensure that its Federal Election Commission reports are completed timely and accurately, HSFC, like many campaign committees, contracted with an outside compliance firm, Campaign Finance Officers LLC, to handle its accounting and prepare and file its reports. HSFC gave the vendor access to its bank account information, so that the vendor could perform its duties of preparing, reviewing and filing the committee's reports. Among those duties was to review HSFC's bank accounts for disbursements and input their activity into the filing software that the vendor would then use to file reports with the Commission. HSFC has used the same vendor since 2008. That same vendor has provided services to several campaigns and political organizations nationwide. Until the incident leading to this referral, HSFC had no reason to question the quality of the vendor's performance.

The committee understands from the vendor that, during the time period in question, the vendor had tasked one of its employees with monitoring HSFC's accounts. As the vendor later informed HSFC, this employee failed to check one of HSFC's bank accounts – an account used solely to

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pay for media purchases – before preparing the 2010 October Quarterly, the 2010 12 Day Pre-General, and the 2010 30 Day Post-General Reports. Because of its employee's omissions, the vendor failed to include five such media purchases in the reports it prepared and filed for HSFC.

HSFC learned about these omissions in January 2011 when its 2010 Year End Report was being prepared. It promptly worked with the vendor to correct them. On January 31, 2011, HSFC filed amended 2010 October Quarterly, 2010 12 Day Pre-General, and 2010 30 Day Post-General Reports to disclose the previously omitted disbursements. On its own accord, HSFC filed an FEC Form 99 explaining that the omissions resulted from vendor error. To avoid future errors, HSFC implemented a new policy that all of its FEC reports must be reviewed twice by permanent committee staff, as well as by the vendor, before filing. Under that policy, one employee reconciles the report to the committee's bank statements, and another provides a final review. For its part, the vendor has informed HSFC that it dismissed the responsible employee.

Following HSFC's self-correction, RAD sent HSFC three requests for additional information, asking the committee to clarify why the additional activity was not provided with the original report.<sup>1</sup> HSFC responded to each request timely.

The committee regrets the omissions in the reports, which it moved to correct. But HSFC respectfully submits that enforcement action against the committee would be inappropriate here. The committee acted reasonably to ensure that it met its reporting obligations under the Act. In order to ensure its reports were completed professionally, it incurred the extra expense of hiring an experienced outside vendor to handle its accounting and report preparation. It provided the vendor with access to all the necessary information. This was not a case in which a respondent failed adequately to supervise a trusted employee, or to devote the resources necessary to compliance. Rather, it engaged a national firm which held itself out as having the skill and capability to provide these services, only to find later that there was a lapse in the vendor's own procedures, which the committee did not control. Here, the lapse involved a discrete error that encompassed a small number of transactions.

When HSFC learned that it had filed incomplete reports due to the vendor's omission, it promptly took corrective action. It filed amended reports, it disclosed the source of the error on the public record, and it revised its internal procedures to prevent similar errors from occurring in the future. In light of HSFC's corrective action, and the fact that the public record is now accurate and complete, we respectfully ask that the Commission dismiss the matter.

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<sup>1</sup> On February 23, 2011, RAD sent HSFC a request for additional information regarding its amendment to the 2010 12 Day Pre-General Report; on June 14, 2011, it sent a request regarding the 2010 30 Day Post-General Report; and on October 13, 2011, it sent a request regarding the 2010 October Quarterly Report.

Jeff Jordan  
February 2, 2012  
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Very truly yours,



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